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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEVIN FERNANDEZ,

Plaintiff,

vs.

S. MOLLET, et al.,

Defendant.

Case No. 3:16-cv-00366-MMD-WGC

Order Granting

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO RESPOND
TO DISCOVERY
(SECOND REQUEST)**

Defendants, Ronald Bryant, Christopher Hayman, Cade Herring, Stephen Mollet, Nevada Department of Corrections, and State of Nevada by and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Benjamin R. Johnson, Deputy Attorney General, hereby move this Court for an enlargement of time to serve their responses and/or objections to Plaintiff's Request for Interrogatories (Second Set). This Motion is based on the following Memorandum of Points and Authorities and all papers and pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND RELEVANT PROCEDURAL HISTORY

Plaintiff Kevin Fernandez served his untimely Request for Interrogatories on Defendants Bryant and Nevada Department of Corrections on December 26, 2017. These two defendants were not added to the case until January 8, 2018. (ECF No. 48). Pursuant to FED. R. CIV. P. 33(b)(2), a responding party must serve its answers and any objections within thirty (30) days after being served with the

1 interrogatories. Therefore, responses and/or objections to Plaintiff's Request for Interrogatories are due to
2 be served on today's date, February 21, 2018. Defendants previously sought and were granted a fourteen
3 day extension of time to serve responses. (ECF No. 54). Defendant Bryant has submitted his interrogatory
4 responses, but the NDOC needs additional time to collect information for responding. Associate Warden
5 Gittere at Ely State Prison is assisting with the responses and has requested additional time to respond.

6 Therefore, counsel respectfully requests a second enlargement of time of fourteen (14) days to
7 serve the responses and/or objections to Plaintiff's Request for Interrogatories to Nevada Department of
8 Corrections.

9 **II. ARGUMENT**

10 FED. R. CIV. P. 6(b)(1) governs enlargements of time and provides as follows:

11 When an act may or must be done within a specified time, the court may,
12 for good cause, extend the time: (A) with or without motion or notice if
13 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

14
15 The proper procedure, when additional time for any purpose is needed, is to present a request
16 for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31
17 F.R.D. 282 (W.D. Pa. 1962). Extensions of time may always be asked for, and usually are granted on a
18 showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8
19 F.R.D. 268 (N.D. Ohio 1947).

20 Counsel seeks an enlargement of time to serve the responses and/or objections to Plaintiff's
21 Request for Interrogatories to NDOC. Defendants' time to serve the responses and/or objections has not
22 expired. This enlargement of time is not made for the purposes of delay or to prejudice Plaintiff. For
23 these reasons, Defendants request an enlargement of time of fourteen (14) days to serve the responses
24 and/or objections to Plaintiff's Request for Interrogatories to NDOC.

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1 **III. CONCLUSION**

2 Based on the foregoing, Defendants respectfully request that this motion for enlargement of
3 time to serve responses and/or objections to Plaintiff's Request for Interrogatories be granted until
4 March 7, 2018.

5 DATED this 21st day of February, 2018.

6 ADAM PAUL LAXALT
7 Attorney General

8 By:

9 Benjamin R. Johnson
10 BENJAMIN R. JOHNSON
11 Deputy Attorney General
12 State of Nevada
13 Bureau of Litigation
14 Public Safety Division

15 *Attorneys for Defendants*

16 **APPROVED AND SO ORDERED:**

17 Walter G. Cobb
18 U.S. MAGISTRATE JUDGE

19 DATED: Feb 22, 2018